

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

<b>Richard F. Boone</b> <b>Plaintiff</b>	:	<b>CIVIL ACTION #02-CV-3726</b>
	:	
<b>vs.</b>	:	<b>JURY TRIAL DEMANDED</b>
<b>Sharon Hill Borough Police Department</b> <b>County of Delaware</b> <b>Defendants</b>	:	
	:	

**MOTION OF DEFENDANT, COUNTY OF DELAWARE,  
TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT  
TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)**

Defendant, the County of Delaware (hereinafter referred to as "Moving Defendant"), by and through its counsel, Robert P. DiDomenicis, Esquire, hereby moves this Honorable Court pursuant to F.R.C.P. 12(b)(6) to dismiss Plaintiff's Complaint and, in support thereof, avers the following:

1. Plaintiff initiated the instant action by filing a Complaint in the United States District Court for the Eastern District of Pennsylvania on June 26, 2002 at No. 02-CV-3726. (A true and correct copy of said Complaint is attached hereto, made a part hereof and marked as Exhibit "A").

2. Prior to the docketing of the Complaint on June 26, 2002, Plaintiff filed a Motion for Leave to Proceed in forma Pauperis on June 12, 2002. (A copy of the docket entries reflecting same are attached hereto, made a part hereof and marked as Exhibit "B").

3. Plaintiff's Complaint alleges that his cause of action arose on June 17, 2000.

4. Plaintiff's Complaint fails to set forth a claim upon which relief can be granted against the County of Delaware.

5. To the extent that Plaintiff's claims sets forth state tort law causes of action against the County of Delaware same are barred by the provisions of the Pennsylvania Political Subdivision Tort Claims Act.

6. Plaintiff's Complaint fails to state a claim upon which relief can be granted under 42 U.S.C. §1983.

**WHEREFORE**, Moving Defendant, County of Delaware, respectfully requests that Plaintiff's Complaint be dismissed with prejudice.

Respectfully Submitted,

**HOLSTEN & ASSOCIATES**

**BY:** \_\_\_\_\_  
**ROBERT P. DIDOMENICIS, ESQUIRE**  
**Attorney for County of Delaware**

**Date:** \_\_\_\_\_